

REMARKS

Applicant has carefully reviewed the Office Action mailed on May 8, 2009. Applicant respectfully traverses (and does not concede) all objections, rejections, adverse statements, and adverse assertions made by the Examiner. Please cancel claim 28 without prejudice. Claims 1, 3-5, and 10-16 are presented for examination.

Claim Rejections under 35 U.S.C. §102

Claim 28 was rejected under 35 U.S.C. §102(b) as being anticipated by Cragg et al. in U.S. Patent No. 6,146,373. Without conceding the merits of the rejection, please note that claim 28 is now cancelled without prejudice, rendering the rejection moot. Applicant reserves the right to pursue this claim or claims of a similar scope in the future.

Claim Rejections under 35 U.S.C. §103

Claims 1, 3-5, and 10-14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Zadno-Azizi et al. in U.S. Patent No. 6,022,336 in view of Banka in U.S. Patent No. 4,299,226. Applicant respectfully traverses the rejection.

Claim 1 recites that a portion of the outer wall surface of the second tubular member is bonded to a portion of the inner wall surface of the first tubular member.

The Office Action indicated that “Zadno-Azizi fails to disclose that the outer wall of the second tubular member is bonded to the inner wall of the first tubular member.” However, the Office Action went on to state that “Zadno-Azizi does disclose that the configuration shown in Fig. 2 is an ideal condition that maximizes the lumen pathways (col. 7, lines 60-65, col. 8, lines 46-48” and, because of this, “it would have been obvious to one of ordinary skill in the art to fix the tubular members together in the disclosed orientation to maximize the lumen openings to ensure that the viscous fluid can flow through the lumen and the flow rates can be reliably determined.” Applicant respectfully disagrees that Zadno-Azizi et al., particularly the portions cited in the Office Action, render the claimed invention obvious.

Zadno-Azizi et al., at column 7, lines 60-65, comment on the arrangement of catheters 20/22/24 in Figure 2. However, this passage does not indicate that fixing together any of the catheters 20/22/24 would be desirable. Instead, the passage indicates that the orientation shown

is "for ease of illustration only" and that the catheters 20/22/24 are moveable because "in actual practice the positions of the various catheters 20, 22, 24 relative to one another may vary due to pressures, flow rates, etc." (Emphasis added). This indicates that not only do Zadno-Azizi et al. fail to teach an outer wall of a second tubular member bonded to an inner wall of a first tubular member, as claimed, but the cited art teaches that catheters 20/22/24 are moveable relative to one another and not bonded together in order to accommodate this movement.

Column 8, lines 46-48 do not provide any other teaching that renders the claimed invention obvious. For example, this passage relates to the relative sizes of the inner and outer pathways. Thus, this portion of Zadno-Azizi et al. also fails to render the claimed invention obvious.

Based on the forgoing, Applicant respectfully submits that claim 1 is distinguishable from Zadno-Azizi et al. Banka does not overcome the shortcomings of Zadno-Azizi et al. Consequently, Applicant respectfully submits that claim 1 is patentable over the combination of Zadno-Azizi et al. and Banka, to the extent that such a combination is even possible. Because claims 3-5 and 10-14 depend from claim 1, they are also patentable for the same reasons as claim 1 and because they add significant elements to distinguish them further from the cited art.

Claims 15-16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Zadno-Azizi et al. in view of Banka in view of Belden in U.S. Patent No. 5,409,455. For the reasons set forth above, Applicant respectfully submits that claim 1 is patentable over the combination of Zadno-Azizi et al. and Banka. Belden does not overcome the shortcomings of the cited art. Consequently, Applicant respectfully submits that claim 1 is patentable over the combination of Zadno-Azizi et al., Banka, and Beldon, to the extent that such a combination is even possible. Because claims 15-16 depend from claim 1, they are also patentable for the same reasons as claim 1 and because they add significant elements to distinguish them further from the cited art.

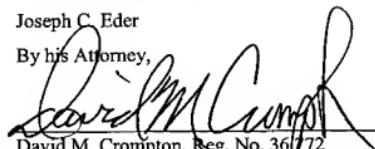
Conclusion

Reconsideration and further examination of the rejections are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By his Attorney,



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